



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of David Nijm,
Fire Captain (PM1051V),
Paterson

CSC Docket No. 2019-2486

Examination Appeal

ISSUED: June 13, 2019 (RE)

David Nijm appeals his score for the oral portion of the promotional examination for Fire Captain (PM1051V), Paterson. It is noted that the appellant passed the subject examination with a final average of 80.220 and ranks 65th on the resultant eligible list.

This two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's structure and condition (arriving). Knowledge of supervision was measured by

questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five-minute preparation period was given, and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

For the evolving scenario, the appellant scored a 2 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. For the arriving scenario, the appellant scored a 3 for the technical component, a 4 for the supervision component, and a 4 for the oral communication component. The appellant challenges his scores for the technical component of the evolving scenario, and for the supervision and oral communication components of the arriving scenario. The appellant also appeals the test administration, stating that constant camera adjustments interfered with his thought process. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

At the outset, appeals of test administration must be filed in writing at the examination site on the test date. See N.J.A.C. 4A:4-6.4(c). Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she must do so at the test center. Additionally, all candidates for examinations are provided with an informational flyer that specifically informs them of the need to appeal administration issues, including how the examination is conducted, at the examination center. Specifically, the back of the Rights and Responsibilities of Test Takers form states, "Candidates should complete a Test Administration Comment/Appeal form provided at the test center to file their objection, and have 5 business days to submit their \$20 appeal fee where applicable." The instructions for the Test Administration Comment/Appeal form state, "All appeals concerning

administrative procedures (the way the test was administered) must be submitted in writing before you leave the building. Subsequent appeals regarding test administration will not be accepted.” The Appellate Division of Superior Court has noted that “the obvious intent of this ‘same-day’ appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered.” *See In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003).

On appeal, the appellant argues that “The video proctor was unclear on the use of the video equipment (Please refer to video footage.) The constant adjustments of the camera were interfering with my thought process causing disturbances.” The appeal of test conditions, *i.e.*, camera adjustments, was postmarked March 4, 2019, almost a year after the examination was given on March 10, 2018, and after receiving his examination results. As such, the appeal of this issue is clearly untimely. Nevertheless, a review of the video indicates that the monitor adjusted the camera prior to the start of the evolving scenario, and it was not adjusted during his presentation. There is absolutely no merit to this appeal, as the adjustments were not constant, but were before the start of the first presentation, as required. The monitor is a veteran to this method of administration, and has administered many examinations that required the use of video equipment.

Regarding scoring, the evolving scenario involved involves a fire in a bookstore, and fire has broken through the roof. For the technical component, the assessor indicated that the appellant failed to ventilate windows on side a, a mandatory response to question 1, and to evacuate the crew from the building, a mandatory response to question 2. The assessor also noted that the appellant missed the opportunity to report to the Incident Commander (IC) after evacuation, an additional response to question 2. On appeal, the appellant states that he stated that he would horizontally and vertically vent.

Question 1 asked candidates to describe in detail the orders they would give to their crew to carry out their assignment from the Incident Commander (IC). Question 2, indicates that, upon entry to perform a primary search, the candidate notes extremely high temperatures and a lot of smoke, and fire spreading across the ceiling from side C to side A. Candidates were to describe their next action. A review of the video indicates that the appellant indicated that he would inform the IC of the search before it was to begin, feel the door for heat, and then perform a search. Then he stated, “Once the room has been searched we will conduct vertical ventilation if possible.” In fact, the fire has already broken through the roof on side C, and is self-ventilating there. Venting the roof is a waste of personnel, and puts the members in danger as the truss roof has been compromised. The fire is in the second store in a strip mall of light weight steel truss construction. On side A is a glass door two large windows almost the size the of the door, and small

windows over the door and a window. SMEs determined that given the conditions it was mandatory for candidates to ventilate the windows on side A. Based on his response, the appellant performed his entire search without first ventilating the windows on side a. The appellant backed his crew up, waited for water to cool the trusses, and did not indicate that he would evacuate. Also, he also requested additional ventilation at this point, although he has failed to ventilate the large windows on side A. The appellant then takes actions as though he is the IC, and these actions are not a direct response to question 1, which only asks for orders to the crew to carry out his assignment. A review of the presentation indicates that he did not give the two mandatory responses noted by the assessor, and he missed other actions as well. As such, his score of 2 is correct.

The arriving scenario involved a report of fire on the first and second floor of a row home, where there were people squatting inside when the fire broke out. Question 3, the supervision question, indicated that as the candidate is evacuating other rowhomes on the block, one of his firefighters gets into a screaming argument with a resident who does not want to leave, and the firefighter attempts to perform a firefighter's carry with the resident. The question asks for actions to take now and back at the firehouse.

For the supervision component, the assessor noted that the candidate missed the opportunity to call law enforcement to remove the resident. On appeal, the appellant states that he called the police.

In reply, at the end of every scenario and prior to the questions, instructions state, "In responding to the questions, make sure your actions directly relate to the scenario. Do not assume or take for granted that general actions will contribute to your score." A review of the appellant's presentation indicates that he called for police for crowd control and safety purposes when he was calling for additional resources in response to question 1.

However, in response to question 3, the actions that the appellant took on scene were to stop the firefighter and assess the "victim." He then stated, "I will have the victim triaged, treated and transported. I would remove the victim from the toxic environment. At this time, I will stop the firefighter because he's screaming. We don't do that, we don't scream. I will ID the problem. I will identify the problem. Once back at the firehouse, at the fire scene I will correct the problem, apologize to the victim and have another firefighter, or a safety officer ah, go with the victim to the hospital, making making sure the victim is is doing well and followup with the victim after the situation, ah, surpasses. Ah, I will fact find. I will get all the facts. Get all the facts on this firefighter. Why? Does he not know how to carry? What's going on here?" In this passage, the appellant has not taken proper actions in response to the situation. This is not a victim but a resident of an exposure building

that won't leave. And there is no indication how he's going to remove the resident from the toxic environment without law enforcement assistance. He also appears to think that the firefighter did not know how to carry properly, and later on gave him the assignment of teaching the crew a lesson on victim carry. This is completely incorrect. Credit is not given for information that is implied or assumed, and the appellant cannot get credit for calling law enforcement to remove the resident. In fact, it appears that he had another firefighter or safety officer try to do so and he ignores the fact that the resident was reluctant to leave. The appellant missed this action as noted by the assessor.

As to oral communication component for the arriving scenario, the assessor noted a minor weakness in non-verbal communication as excessive hand gestures caused a distraction. The appellant argues that his hand gestures were limited, his hand gestures indicated a passion for expressive explanation of the scenario, his culture uses hand gestures, and he used hand gestures as a form of confidence and authority.

In reply, a factor in oral communication is nonverbal communication. A weakness in this factor is defined as failing to use gestures effectively, thereby causing confusion or distractions, and failing to maintain eye contact with the camera when speaking. A review of the presentation indicates that the appellant did not use excessive hand gestures while answering question 1, and he began using limited hand gestures in the middle of his response to question 2 which became more frequent as he talked. He held a pen in his right hand and would point it at the camera occasionally, and he counted points on his fingers. For question 3, the appellant gesticulated throughout his response, waving his hands, moving his body back and forth, and tapping the pen point on the desk and pointing it at the camera. His gestures were a minor distraction in his presentation and his score will not be changed.

CONCLUSION

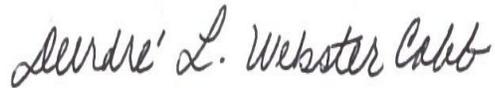
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12th DAY OF JUNE, 2019



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